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DAN EARNETT  
CHIEF OF STAFF

RECEIVED  
002-1706

177978

February 16, 2006

**VIA HAND DELIVERY**

The Honorable Charles L.A. Terreni  
Chief Clerk/Administrator  
South Carolina Public Service Commission  
101 Executive Center Dr., Suite 100  
Columbia, SC 29210

SC PUBLIC SERVICE  
COMMISSION

2006 FEB 16 PM 4:25

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Re: Petition of the Office of Regulatory Staff for Rulemaking Proceeding Governing  
the Performance Bonds Filed by Water and Sewer Utilities  
**Docket No. 2005-243-WS**

Dear Mr. Terreni:

For your docket, please find enclosed the original and twenty-five (25) copies of the Direct Testimony and Exhibits of Willie J. Morgan and Dawn M. Hipp in the above referenced docket. Also, if you would, please date stamp the extra copy and return it to me via our courier.

Please let me know if you have any questions.

Sincerely,

Benjamin P. Mustian

BPM/pjm  
Enclosures

cc: Julie F. McIntyre, Esquire  
Sarah K. Black

RETURN DATE: *OK D. Duke*  
SERVICE: *OK D. Duke*

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION**  
**OF SOUTH CAROLINA**  
**DOCKET NO. 2005- 243 -WS**

SC PUBLIC SERVICE  
COMMISSION

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IN RE:

Petition of the Office of Regulatory )  
Staff for Rulemaking Proceeding )  
\_\_\_\_\_ )

PETITION FOR  
RULEMAKING

This is to certify that I, Pamela J. McMullan, an employee with the Office of Regulatory Staff, have this date served one (1) copy of the **DIRECT TESTIMONY AND EXHIBITS OF WILLIE J. MORGAN AND DAWN M. HIPP** in the above-referenced matter to the person(s) named below by causing said copy to be deposited in the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below:

Sara K. Black, Vice President  
Lake Princeton Water Co.  
121 South Chateau Drive  
W. Columbia, SC 29170

Julie F. McIntyre, Esquire  
SC DHEC  
2600 Bull Street  
Columbia, SC 29201

  
\_\_\_\_\_  
Pamela J. McMullan

February 16, 2006  
Columbia, South Carolina

**THE OFFICE OF REGULATORY STAFF  
DIRECT TESTIMONY AND EXHIBITS  
OF**

**DAWN M. HIPPI**



RECEIVED  
2006 FEB 16 PM 4:25  
SC PUBLIC UTILITY  
COMMISSION

**DOCKET NO. 2005-243-WS**

**Petition of the Office of Regulatory Staff for  
Rulemaking Proceeding Governing the  
Performance Bonds Filed by Water and  
Sewer Utilities**

**TESTIMONY OF DAWN M. HIPPI****FOR****THE OFFICE OF REGULATORY STAFF****DOCKET NO. 2005-243-WS****IN RE: WATER AND WASTEWATER PERFORMANCE BONDS**

**Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND OCCUPATION.**

A. My name is Dawn M. Hipp. My business address is 1441 Main Street, Suite 300, Columbia, South Carolina 29201. I am employed by the state of South Carolina as a Program Specialist in the Water/Wastewater Department for the Office of Regulatory Staff ("ORS").

**Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.**

A. I am a 1992 graduate of Moorhead State University where I earned a B.S. in Political Science. I have over eight years of experience in hazardous waste regulation. From 1996 to 1999, I worked for Laidlaw Environment Services in Saukville, Wisconsin, as an accounts receivable supervisor and then as a facility accounting supervisor for Laidlaw's Government Services Division. In this role, I facilitated electronic commerce including EDI transfer of order and EFT

1 payments with customers. I also developed, implemented, and enhanced  
2 government billing and waste tracking systems. From 1999-2003, I worked for  
3 Safety-Kleen Corporation and Clean Harbors Environmental Services, Inc. in  
4 Columbia, SC as an operations manager in the Government Services Division. In  
5 this role, I managed the financial, operations and all regulatory aspects of field  
6 offices nationwide serving Department of Defense hazardous waste removal  
7 contracts. I was accountable for the viability of 14 government contracts yielding  
8 \$12 million in revenue annually.

9 In September 2004, I joined ORS as the Program Specialist for the Water and  
10 Wastewater Department. I am a member of the American Water Works  
11 Association ("AWWA") and the South Carolina Section of the American Water  
12 Works Association ("SC-AWWA").

13 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**  
14 **PROCEEDING?**

15 A. The purpose of my testimony is to provide information regarding water and  
16 wastewater system financial viability as requested by this Commission.  
17 Specifically, I will focus on the definition of viability and current viability  
18 statistics on regulated water and wastewater utilities.

19 **Q. ARE THE FINDINGS OF YOUR REVIEW CONTAINED IN THIS**  
20 **TESTIMONY AND ACCOMPANYING EXHIBITS?**

21 A. Yes, my testimony and the attached exhibits detail ORS's findings and  
22 recommendations.

1    **Q.    PLEASE EXPLAIN HOW YOU COMPILED INFORMATION FOR YOUR**  
2    **TESTIMONY AND EXHIBITS.**

3    A.    I used financial information as provided by South Carolina Public Service  
4    Commission (“PSC”) regulated water and wastewater utilities in their 2004  
5    Annual Reports, 2005 Gross Receipts Filing and 2005 Performance Bond filing.  
6    In addition, I consulted with and reviewed information provided by South  
7    Carolina Department of Environmental Health and Control (“DHEC”), the  
8    Environmental Protection Agency (“EPA”), the National Association of  
9    Regulatory Utility Commissioners (“NARUC”), the National Regulatory  
10   Research Institute (“NRRRI”), AWWA and the National Association of Water  
11   Companies (“NAWC”).

12   **Q.    HOW IS WATER AND WASTEWATER SYSTEM VIABILITY**  
13   **DEFINED?**

14   A.    According to the State Primary Drinking Water Regulations (“SPDWR”) 61-  
15   58.B, the term “viable water system” is defined as:

16           “...a water system that is self-sustaining and has the commitment and the  
17           financial, managerial and technical capability to consistently comply with  
18           the Safe Drinking Water Act (“SDWA”) and the SPDWR.”

19   Likewise, the South Carolina Water Pollution Control Permits Regulations  
20   (“SCWPCPR”) 61-9.600.2 defines the term “viable wastewater system owner” as:

21           “...an owner who has demonstrated the financial, technical and  
22           managerial capability to handle all aspects of operation, maintenance and

1 replacement of wastewater systems to reasonably assure compliance with  
2 Department laws and regulations.”

3 For comparison, the AWWA offers the following definition of a “viable system”  
4 in its Executive Summary approved in June 1995 titled “Building Water System  
5 Viability:”

6 “Viable systems are self-sustaining systems that can reliably meet all  
7 present and future requirements in a dynamic, comprehensive manner that  
8 assures the continued delivery of safe water.”

9 In summary, SC investor-owned water and wastewater utilities must be self-  
10 sustaining which implies managed, funded and maintained to ensure the consumer  
11 receives and continues to receive reliable service in compliance with all State and  
12 Federal rules and regulations.

13 **Q. CURRENTLY, HOW IS VIABILITY REGULATED FOR INVESTOR-**  
14 **OWNED WATER AND WASTEWATER UTILITIES IN SOUTH**  
15 **CAROLINA?**

16 A. Water and wastewater system viability is specifically regulated by DHEC under  
17 the SPDWR and SCWPCPR. Under R.61-58.1(B)(4) and R.61-9.600.4, a new  
18 water or wastewater system must demonstrate to DHEC that it will be a viable  
19 entity in order to receive a permit from the Agency to construct the system. In  
20 addition, existing water and wastewater systems with operational, maintenance or  
21 compliance problems may be required by DHEC to submit an organized business  
22 plan to demonstrate their commitment to viability. According to DHEC

requirements, utilities must specifically address the following areas, according to DHEC guidelines, in their business plan:

- 1) Facilities planning;
- 2) Management planning; and
- 3) Financial planning.

While DHEC only requires a business plan on new water and wastewater systems or those struggling with compliance, DHEC encourages all utilities to develop such a plan as general business practice.

The PSC regulates water and wastewater system viability in two ways:

- 1) Setting rates which enable a fair return on investment and the ability to attract capital for infrastructure repair and replacement while maintaining affordability for the consumer; and
- 2) Requiring performance bonds to assist in continued operation of needy systems.

**Q. ARE PSC-REGULATED WATER AND WASTEWATER UTILITIES SELF-SUSTAINING AND COMPLIANT WITH REGULATORY REQUIREMENTS? PLEASE EXPLAIN.**

A. I have prepared four exhibits to provide you with a general financial and compliance status within our currently regulated water and wastewater utilities. Exhibit DMH-1 provides a comprehensive overview of the financial and compliance status of water and wastewater utilities. I have included the following information for your reference.



- 1) 2004 Annual Report data including file date, number of customers served, and operating revenues/expenses;
- 2) Net operating margin derived from the 2004 Annual Report;
- 3) PSC approved operating margin and PSC order number granting operating margin;
- 4) Gross Receipts status for the period ending June 30, 2005;
- 5) Current Performance Bond status.

Exhibit DMH-2 compares the average operating revenues and average operating expenses reported by the utilities for business conducted in 2004. It is important to note here that 13 utilities did not file 2004 Annual Reports with the PSC and nine utilities have no known PSC-approved operating margin. As you can see, average operating revenues for utilities whose customer base is less than 5,000 customers was reported to be less than average operating expenses for the same time period. Financial ratios are often used to gauge the viability of water and wastewater utilities. Exhibit DMH-3 provides a comparison between the actual operating margins produced by water and wastewater utilities during 2004 and operating margins approved by the PSC for these utilities for this same time period.

Exhibit DMH-4 provides an overview of utilities' compliance with PSC requirements. I have added some interest points to indicate average revenue of utilities in and out of compliance. Utilities with low operating revenue struggle to file annual reports and gross receipts.

1 **Q. IN GENERAL, WHAT ACTIONS CAN A WATER OR WASTEWATER**  
2 **UTILITY UNDERTAKE TO ENSURE IT IS A SELF-SUSTAINING,**  
3 **VIALE ENTITY?**

4 **A.** In order to operate successfully over the long term, water and wastewater utilities  
5 can take the following actions:

- 6 1) Request rates sufficient to fund operating costs and capital  
7 infrastructure improvements to ensure compliance;
- 8 2) Develop a strategic business plan to include the following components:
  - 9 a) Short and long-term financial planning;
  - 10 b) Technical and operational planning;
  - 11 c) Succession planning;
  - 12 d) Managerial development; and
  - 13 d) Asset management planning
- 14 3) Communicate and collaborate with all stakeholders

15 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

16 **A.** Yes it does.

**THE OFFICE OF REGULATORY STAFF**

**DOCKET NO. 2005-243-WS**

Petition of the Office of Regulatory Staff for Rulemaking Proceeding Governing the  
Performance Bonds Filed by Water and Sewer Utilities

**DAWN M. HIPPI TESTIMONY**

**EXHIBIT INDEX**

<b><u>EXHIBIT NO.</u></b>	<b><u>EXHIBIT TYPE</u></b>	<b><u>PREPARED BY</u></b>
DMH-1	PSC Water and Wastewater 2004 Annual Report Statistics	ORS
DMH-2	Comparison of 2004 Operating Revenues and Operating Expenses	ORS
DMH-3	Operating Margin Comparison	ORS
DMH-4	Compliance Status and Operating Revenue Comparison	ORS

**Notes:**

- 1) 13 Utilities did not file the 2004 Annual Report.
- 2) PSC Approved Operating Margin is not available for 9 utilities.
- 3) All Annual Report data is not audited by ORS.

COMPANY NAME	NUMBER OF CUSTOMERS	ANNUAL REPORT RECEIVED	OPERATING REVENUES	OPERATING EXPENSES	NET OPERATING INCOME	INTEREST PER REPORT	NET OPERATING MARGIN	APPROVED OPERATING MARGIN	ORDER GRANTING OPERATING MARGIN	GROSS RECEIPTS FILED FOR PERIOD ENDING 06/30/05(Y/N)	COMPLIANT WITH PERFORMANCE BOND REQUIREMENT (Y/N)
A.D. HARE WATERWORKS, INC.	613	05/11/05	\$217,247	\$216,537	\$710	\$5,853	-2.37%	18.32%	2002-535	Y	Y
AAA UTILITIES, INC.	536	07/13/05	\$172,504	\$153,394	\$19,110	\$3,670	8.95%	4.44%	1985-1579	Y	N
ALPINE UTILITIES, INC.	5,673	03/24/05	\$1,297,728	\$1,146,756	\$150,972	\$20,868	10.03%	25.96%	Unknown	Y	Y
AQUA SOUTH CAROLINA, INC.	430	03/07/05	\$95,410	\$119,682	-\$24,272	\$329	-25.78%	12.29%	1996-134	Y	Y
ASHLEY OAKS WATER SYSTEM, INC.	93	03/30/05	\$24,216	\$24,265	-\$49	\$11,862	-49.19%	None set	1992-194	Y	N
AVONDALE MILLS, INC.	1,156	12/28/05	\$90,590	\$415,750	-\$325,160	\$3,151	-358.94%	Unknown	80-52	Y	N
BUSH RIVER UTILITIES, INC.	48	03/17/05	\$262,690	\$232,024	\$30,666	\$3,151	10.47%	8.22%	96-44	Y	Y
CAROLINA WATER SERVICE, INC.	15,512	05/17/05	\$5,797,307	\$3,136,514	\$2,660,693	\$650,387	34.68%	12.43%	2001-887	Y	Y
CONDOR ENVIRONMENTAL, INC.	190	NOT FILED		\$0	\$0	\$0	Unknown	13.04%	2000-651	Y	Y
CLUC, INC.	1,537	04/08/05	\$567,853	\$611,784	-\$43,931	\$0	-7.74%	-51.91%	1992-114	Y	Y
DEVELOPMENT SERVICES, INC.	140	03/07/05	\$262,621	\$240,261	\$22,360	\$4,838	6.67%	8.22%	1996-44	Y	Y
DOWD WATER SYSTEM	62	08/04/05	\$32,008	\$15,823	\$16,185	\$0	50.57%	0.00%	2003-250	Y	N
E & R PARTNERSHIP	275	10/20/05	\$58,468	\$31,989	\$26,479	\$0	45.29%	39.20%	98-390	Y	Y
EAGLE POINT WATER CO. INC.	64	NOT FILED	\$0	\$0	\$0	\$0	Unknown	37.66%	1993-920	N	N
FERGUSON WATER SYSTEM	7	04/04/05	\$3,934	\$2,194	\$1,740	\$0	44.23%	-110.24%	1995-1420	Y	N
FLOYDVILLE COMM. WATER SYSTEM	81	NOT FILED	\$0	\$0	\$0	\$0	Unknown	Unknown	Unknown	Y	N
GEORGIA WATER & WELL SERV., INC.	424	06/17/05	\$983,745	\$338,594	\$55,151	\$3,384	13.15%	26.91%	89-1131	Y	Y
GNATO'S ACRES	14	NOT FILED	\$0	\$0	\$0	\$0	Unknown	Unknown	Unknown	N	N
GOAT ISLAND WATER AND SEWER, INC.	100	06/24/05	\$63,526	\$45,420	\$18,106	\$0	28.50%	None set	95-1731	Y	N
GUERIN CREEK WATER UTILITY, INC.	14	NOT FILED	\$0	\$0	\$0	\$0	Unknown	42.30%	97-718	Y	N
H & H ENTERPRISES	18	07/01/05	\$2,335	\$1,540	\$795	\$0	34.05%	Unknown	Unknown	N	N
HAG POINT UTILITY COMPANY, INC.	954	07/13/05	\$161,951	\$170,716	-\$8,765	\$0	-5.41%	Unknown	Unknown	Y	Y
HARBOR ISLAND UTILITIES, INC.	696	02/01/05	\$335,193	\$311,262	\$23,921	\$14,224	2.89%	16.00%	2002-866	Y	Y
HYDE PARK WATER WORKS, INC.	92	06/03/05	\$18,147	\$17,555	\$592	\$0	3.26%	35.20%	1994-658	Y	Y
J.C. COX UTILITIES, INC.	33	07/27/05	\$10,504	\$25,414	-\$14,910	\$168	-143.55%	-139.61	2004-101	Y	N
KIAWAH ISLAND UTILITY, INC.	6,211	03/30/05	\$4,981,843	\$3,522,854	\$1,458,989	\$541,017	18.43%	10.75%	2002-285	Y	N
LAKE PRINCETON WATER COMPANY	10	04/14/05	\$4,464	\$3,013	\$1,451	\$0	32.50%	23.80%	2003-657	Y	N
LAKE WYLLIE COMMUNITY UTILITIES	568	05/18/05	\$64,760	\$12,108	-\$47,346	\$413	-73.75%	Unknown	Unknown	Y	Y
LINKS WATER TREATMENT, LLC	22	04/01/05	\$13,786	\$17,893	-\$4,107	\$0	-29.79%	0.00%	2003-236	Y	Y
MADERA UTILITIES, INC.	104	04/04/05	\$28,802	\$29,501	-\$699	\$0	-2.43%	10.00%	2004-296	Y	N
MELROSE UTILITY COMPANY, INC.	348	05/24/05	\$220,025	\$287,406	-\$67,381	\$0	-30.62%	Unknown	Unknown	Y	Y
MIDLANDS UTILITY, INC.	2,842	08/15/05	\$967,029	\$940,656	\$26,373	\$8,514	1.85%	12.46%	97-517	Y	Y
MOORE SEWER, INC.	309	NOT FILED	\$0	\$0	\$0	\$0	Unknown	25.37%	2003-577	Y	Y
OCEAN LAKES UTILITY, LP	2,571	03/17/05	\$318,564	\$50,240	\$268,324	\$0	84.23%	4.80%	1993-1063	Y	N
PALMETTO UTILITIES, INC.	7,554	02/07/05	\$3,370,860	\$2,423,073	\$947,787	\$0	28.12%	10.88%	2001-1119	Y	N
PIEDMONT WATER COMPANY	18	NOT FILED	\$0	\$0	\$0	\$0	Unknown	-35.97%	97-758	N	N
PINEY GROVE UTILITIES, INC.	343	NOT FILED	\$0	\$0	\$0	\$0	Unknown	8.50%	1992-29	N	N
QUAIL HOLLOW UTILITIES, INC.	570	07/01/05	\$150,984	\$155,036	-\$4,052	\$0	-2.68%	5.41%	95-1656	Y	N
QUAIL RIDGE WATER COMPANY	81	02/03/06	\$14,802	\$5,449	\$9,353	\$0	63.19%	39.40%	2000-507	Y	Y
RIVER PINES WATER SYSTEM, INC.	308	NOT FILED	\$0	\$0	\$0	\$0	Unknown	11.56%	1999-128	N	N
RURAL WATER, INC.	164	07/11/05	\$17,524	\$15,059	\$2,465	\$0	14.07%	14.45%	1992-822	Y	N
S.D. UTILITIES, INC.	190	NOT FILED	\$0	\$0	\$0	\$0	Unknown	0.00%	92-800	Y	N
SCENIC LAKE PARK WWTP	25	02/03/04	\$8,298	\$7,255	\$1,044	\$0	12.58%	1.91%	2003-388	Y	Y
SCOTLAND YARD UTILITY	48	06/23/05	\$6,085	\$7,555	-\$1,470	\$0	-24.16%	-14.59%	2000-212	Y	N
SHOALS SEWER COMPANY	106	05/04/05	\$41,481	\$28,018	\$15,472	\$14,000	3.55%	15.82%	2003-141	Y	N
SIGFIELD WATER CO., INC.	83	03/18/05	\$38,133	\$19,786	\$19,337	\$5,006	37.58%	19.24%	1999-625	Y	N
SOUTH ATLANTIC UTILITIES, INC.	22	NOT FILED	\$0	\$0	\$0	\$0	Unknown	1.22%	1992-1037	Y	N
SOUTHLAND UTILITIES, INC.	181	05/17/05	\$48,084	\$29,479	\$18,605	\$8,680	24.80%	15.95%	Unknown	Y	N
SUBURBAN WATER SYSTEM	14	NOT FILED	\$0	\$0	\$0	\$0	Unknown	-28.18%	1996-935	N	N
SWAMP FOX UTILITIES, INC.	UNKNOWN	NOT FILED	\$0	\$0	\$0	\$0	Unknown	Unknown	Unknown	N	Y
T.J. BARNWELL UTILITY, INC.	230	03/14/05	\$91,953	\$177,352	-\$85,390	\$0	-92.85%	-18.81%	2000-0433	Y	Y
TEGA CAY WATER SERVICE, INC.	3,356	05/17/05	\$970,487	\$502,687	\$467,820	\$95,124	38.40%	12.73%	1999-191	Y	N

\* Footnote:

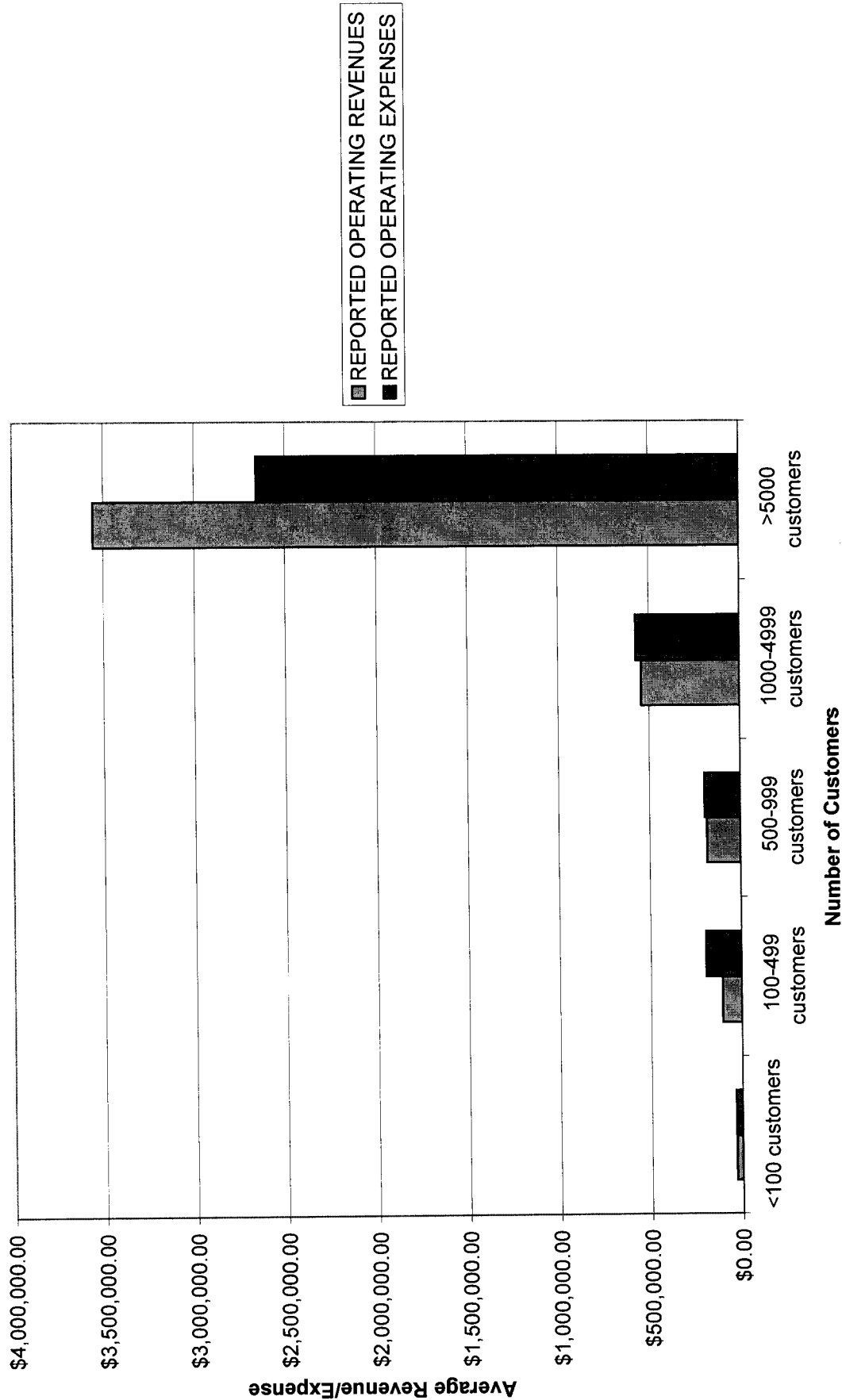
2004 Annual Report Data is unaudited. All data is presented as reported by the Utility.

COMPANY NAME	NUMBER OF CUSTOMERS	ANNUAL REPORT RECEIVED	OPERATING REVENUES	OPERATING EXPENSES	NET OPERATING INCOME	INTEREST PER REPORT	NET OPERATING MARGIN	APPROVED OPERATING MARGIN	ORDER GRANTING OPERATING MARGIN	GROSS RECEIPTS FILED FOR PERIOD ENDING 06/30/05(Y/N)	COMPLIANT WITH PERFORMANCE BOND REQUIREMENT (Y/N)
TESI: TOTAL ENV. SYSTEMS, INC.	1,104	07/05/05	\$394,307	\$587,914	-\$193,607	\$0	-49.10%	3.86%	97-392	Y	Y
UNITED UTILITY COMPANIES, INC.	1,541	05/17/05	\$863,061	\$635,415	\$227,646	\$74,532	17.74%	8.34%	2004-254	Y	N
UPSTATE WATER RESOURCES	79	06/23/05	\$54,311	\$99,141	-\$44,830	\$0	-82.54%	-56.56%	1999-684	Y	N
UTILITIES SERVICES OF S.C. INC.	7,349	05/17/05	\$2,333,013	\$1,567,208	\$765,805	\$273,609	21.10%	Unknown	Unknown	Y	N
WATER SUPPLY CO., INC.	222	04/20/05	\$41,286	\$41,676	-\$390	\$0	-0.94%	-56.48%	1995-1515	Y	N
WOODLAND UTILITIES, INC.	1,174	03/24/05	\$164,985	\$148,198	\$16,787	\$7,680	5.52%	19.65%	1991-1023	Y	Y
WRIGHT'S PLUMBING AND UTILITIES, INC.	26	06/20/05	\$9,710	\$8,350	\$1,360	\$0	14.01%	-11.16%	1999-850	Y	N
WYBOO PLANTATION UTILITIES, INC.	266	04/06/05	\$190,886	\$182,932	\$7,954	\$20,758	-6.71%	-128.71%	1988-33	Y	N
WYBOO WATER DEPARTMENT, INC.	100	10/21/05	\$27,445	\$18,856	\$8,589	\$0	31.30%	Unknown	Unknown	Y	Y

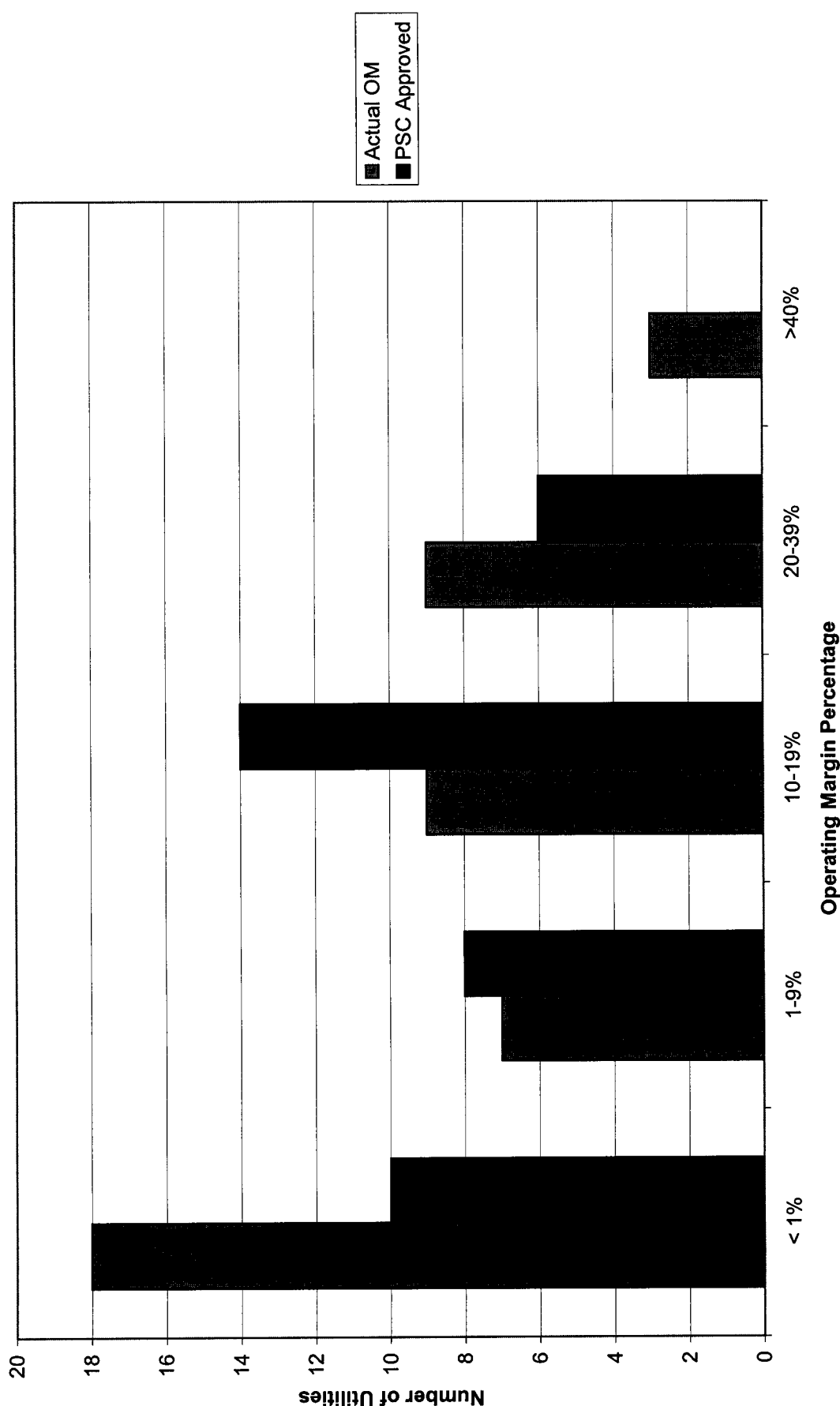
\* Footnote:

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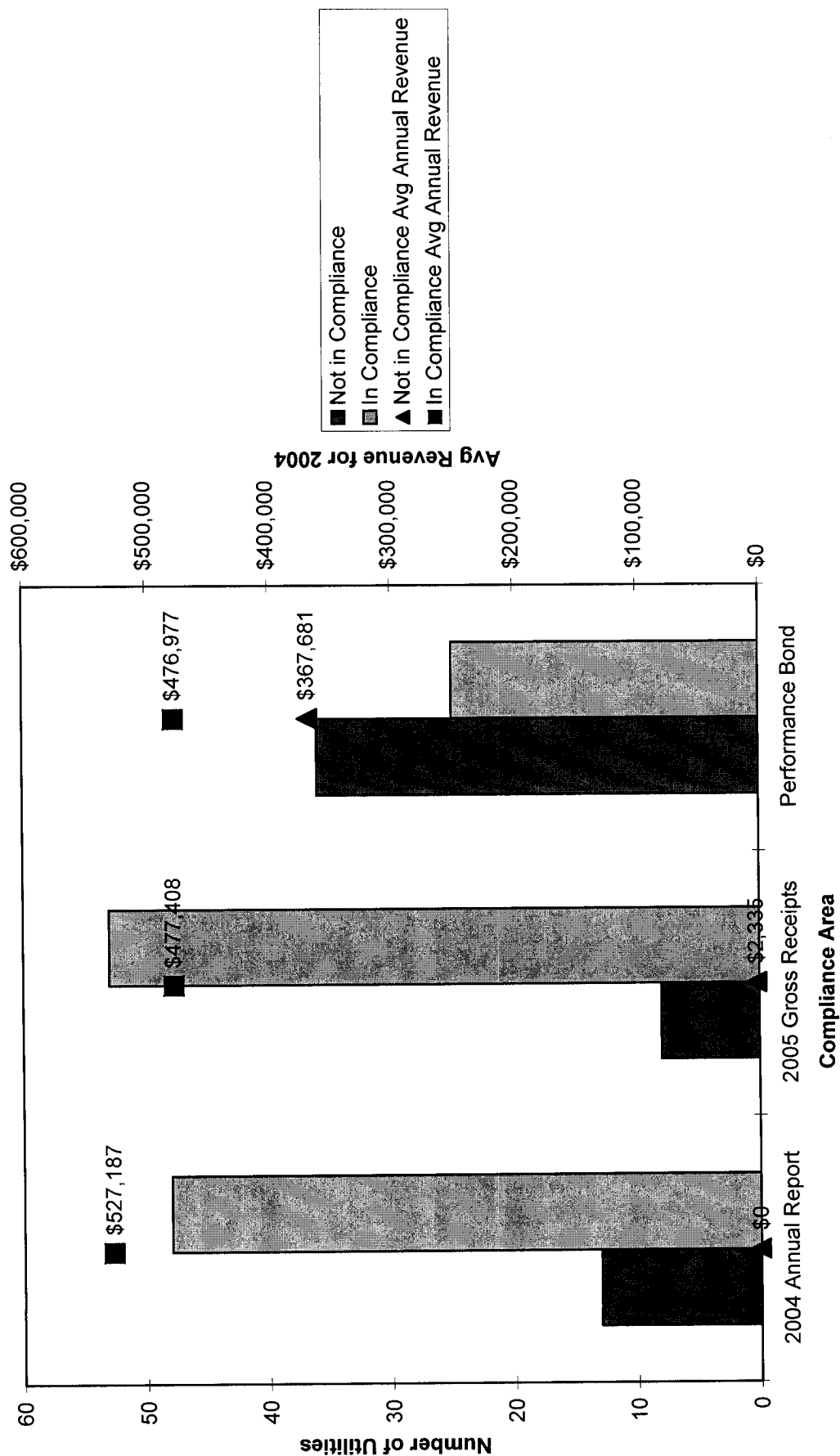
Comparison of 2004 Operating Revenues and Operating Expenses



Actual Operating Margin vs. PSC Approved Operating Margin: 2004 Annual Report Data



# Compliance Status and Average Revenue





**THE OFFICE OF REGULATORY STAFF  
DIRECT TESTIMONY AND EXHIBITS  
OF  
WILLIE J. MORGAN**

RECEIVED  
2006 FEB 16 PM 4:25  
SC PUBLIC SERVICE  
COMMISSION



**DOCKET NO. 2005-243-WS  
PUBLIC HEARING REGARDING WATER  
AND WASTEWATER  
PERFORMANCE BONDS**

**TESTIMONY OF WILLIE J. MORGAN**

**FOR**

**THE OFFICE OF REGULATORY STAFF**

**DOCKET NO. 2005-243-WS**

**IN RE: PUBLIC HEARING REGARDING WATER AND WASTEWATER**

**PERFORMANCE BONDS**

**Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND  
OCCUPATION.**

**A.** My name is Willie J. Morgan, and my business address is 1441 Main Street, Suite 300, Columbia, South Carolina 29201. I am employed by the state of South Carolina, Office of Regulatory Staff ("ORS") as the Program Manager for the Water and Wastewater Department.

**Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND  
EXPERIENCE.**

**A.** I received a Bachelor of Science Degree in Engineering from the University of South Carolina in 1985 and a Master of Arts Degree in Management from Webster University in 2000. I am a licensed Professional Engineer registered in the State of South Carolina. My professional affiliations are as a member of the American Water Works Association ("AWWA"), the South Carolina Section of the American Water Works Association ("SC-AWWA") and the National Society

1 of Professional Engineers ("NSPE"). After graduation from the University of  
2 South Carolina, I was employed by the South Carolina Department of Health and  
3 Environmental Control ("DHEC") as an Environmental Engineer Associate.  
4 Later, I was promoted to the position of Permitting Liaison where I assisted  
5 industries and the public with environmental permitting requirements in the state  
6 of South Carolina. This assistance included providing information about air  
7 quality, solid and hazardous waste management, and water and wastewater  
8 management requirements. I was employed by DHEC for nineteen years. On  
9 October 2, 2004, I joined the ORS as the Program Manager for the Water and  
10 Wastewater Department.

11 **Q. DO YOU HAVE ANY PUBLICATIONS TO YOUR CREDIT?**

12 A. Yes.

13 **Q. WHAT ARE THE NAMES OF SOME OF THOSE PUBLICATIONS?**

14 A. While at DHEC, I published several editions of a document called "A General  
15 Guide to Environmental Permitting in South Carolina." This guide is a summary  
16 of the various environmental requirements that affect businesses and industries  
17 located or operating within the State of South Carolina. Another publication  
18 authored includes a document called "Environmental Protection Fees." This  
19 document is a summary of the fees charged for environmental programs. It  
20 includes detailed information about the fee collected by water utilities to  
21 implement the Safe Drinking Water Act Regulatory Program, fees collected from  
22 wastewater utilities to manage the National Pollution Discharge Elimination

1 System (NPDES) Program, and fees collected for construction activities  
2 associated with water and wastewater utilities.

3 **Q. CAN YOU DESCRIBE THE MISSION OF THE OFFICE REGULATORY**  
4 **STAFF?**

5 A. The mission of ORS is to represent the public interest in utility regulation by  
6 balancing the concerns of the using and consuming public, the financial integrity  
7 of public utilities, and the economic development of South Carolina.

8 **Q. CAN YOU DESCRIBE YOUR RESPONSIBILITIES AS THE PROGRAM**  
9 **MANAGER FOR WATER AND WASTEWATER WITH THE OFFICE OF**  
10 **REGULATORY STAFF?**

11 A. Yes. My responsibilities include performing analysis and providing testimony in  
12 formal proceedings before the Public Service Commission of South Carolina  
13 regarding rate base determinations, rate schedules, general terms and conditions,  
14 cost of service and depreciation studies, and assuring compliance with applicable  
15 rules and regulations. In addition, responsibilities include monitoring federal  
16 activity to determine its impact on state regulations and policies.

17 **Q. HAVE YOU COMPLETED ADDITIONAL TRAINING AND/OR**  
18 **EDUCATION SINCE YOUR GRADUATION FROM THE UNIVERSITY**  
19 **OF SOUTH CAROLINA?**

20 A. I have completed courses in preparation for the professional engineering  
21 examination as well as various review and continuing professional education  
22 courses. The continuing professional education courses include attendance at the  
23 2004 Eastern National Association Regulatory Utility Commissioners

1 (“NARUC”) Utility Rate School: Basics of Ratesetting, the 2005 SC-AWWA  
2 Annual Meeting, and other water and wastewater facility specific courses.

3 **Q. HOW LONG HAVE YOU PROVIDED REGULATORY OVERSIGHT**  
4 **AND ENGINEERING SERVICES TO WATER AND WASTEWATER**  
5 **FACILITIES?**

6 A. My experience includes over twenty years of regulatory compliance experience in  
7 providing assistance and regulatory oversight for water and wastewater facilities.

8 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**  
9 **PROCEEDING?**

10 A. The purpose of my testimony is to set forth the ORS staff concerns and position  
11 relative to the performance bonds posted with the Public Service Commission of  
12 South Carolina (“PSC”) for private investor-owned utilities. In addition, I will  
13 provide information about the quality and service standards for water and  
14 wastewater companies that are regulated by the PSC. Specifically, I will focus on  
15 the water and wastewater companies’ financial assurance mechanisms that are  
16 being provided to the PSC, recommended types of assurances, and the quality and  
17 service standards for water and wastewater companies.

18 **Q. ARE THE FINDINGS OF YOUR REVIEW CONTAINED IN THIS**  
19 **TESTIMONY AND ACCOMPANYING EXHIBITS?**

20 A. Yes, my testimony and the attached exhibits detail my findings and  
21 recommendations.

22 **Q. PLEASE EXPLAIN HOW YOU COMPILED INFORMATION FOR YOUR**  
23 **TESTIMONY AND EXHIBITS.**

1 A. I used information and documents provided by the PSC-regulated water and  
2 wastewater utilities, PSC file information, and information gathered during the  
3 ORS utility site inspections. I also reviewed various utility financial statements  
4 and performance bond documents submitted to the PSC. Further, I consulted with  
5 and used information from DHEC, the Environmental Protection Agency  
6 (“EPA”), and the National Association of Regulatory Utility Commissioners.

7 **Q. WHAT IS THE PURPOSE OF A UTILITY POSTING A PERFORMANCE**  
8 **BOND?**

9 A. When a utility is unable to provide adequate water and/or sewer service, the  
10 performance bond can be a financial resource for agencies or organizations  
11 involved with the continued operation of the systems. The available financial  
12 resources from an adequate surety would allow the organizations time to find a  
13 receiver.

14 **Q. DESCRIBE THE VARIOUS METHODS THAT ARE CURRENTLY**  
15 **BEING USED BY THE WATER AND/OR WASTEWATER UTILITIES**  
16 **TO MEET THE PERFORMANCE BOND REQUIREMENT.**

17 A. Utilities are using the following four methods to meet performance bond  
18 requirements: 1) individual sureties in the form of a personal financial statement;  
19 2) insurance policies; 3) letters of credit; and 4) certificates of deposit. See  
20 EXHIBITS WJM-1 and 2 for a comparison of the various performance bond tools  
21 that are currently used by the Commission regulated water and wastewater  
22 utilities. Thirty-nine (39) of the utilities are using a personal financial statement  
23 to comply with the performance bond requirement. Four (4) utilities are using an

1 insurance certificate. Eleven (11) utilities have an irrevocable letter of credit.  
2 Four (4) utilities have certificates of deposits on file with the Commission. As  
3 can be seen in EXHIBIT WJM-3, most of the private investor-owned utilities  
4 serve less than one-hundred (100) customers. Most of these utilities are utilizing  
5 a personal financial statement to meet their obligation under the performance  
6 bond requirement. For various reasons, some of these utilities have not been  
7 meeting the statutory minimum requirement for a performance bond of \$100,000.

8 **Q. IS AN INDIVIDUAL SURETY A GOOD METHOD FOR PROVIDING**  
9 **FINANCIAL ASSURANCE FOR A WATER OR WASTEWATER**  
10 **COMPANY? EXPLAIN.**

11 A. No. The financial statements of individuals do not provide sufficient surety for  
12 the required bonds. In order to protect consumers and the public interest, ORS  
13 recommends that the regulations implementing and prescribing the filing of  
14 performance bonds, and in particular the regulations concerning what constitutes  
15 sufficient surety on the performance bonds, be examined and amended.

16 **Q. LIST YOUR CONCERNS WITH THE USE OF AN INDIVIDUAL**  
17 **SURETY FOR A PERFORMANCE BOND.**

18 A. My concerns are as follows:

- 19 1. Asset valuation
- 20 2. Incomplete listing of liabilities
- 21 3. Net worth stability
- 22 4. Ease of asset mobility
- 23 5. Collection of funds and enforcement

1                   6. Timeliness to obtain needed funds

2   **Q.   WHAT ARE SOME OF THE CONCERNS IN EVALUATING ASSETS**  
3       **USED ON A PERSONAL FINANCIAL STATEMENT THAT IS**  
4       **CURRENTLY ALLOWED BY THE EXISTING REGULATIONS?**

5   A.   It is very difficult if not impossible to verify the fair market value of certain assets  
6       and liabilities listed on a personal financial statement. Financial statements that  
7       are currently being accepted by the Commission to meet the requirements of the  
8       performance bond include a variety of assets. Sometimes called a statement of  
9       net-worth, these are financial statements of an individual and/or spouse who is  
10      associated with the utility. While personal financial statements may be audited,  
11      reviewed or compiled, most of the information contained on the financial  
12      statements is difficult to verify. In addition, the value of assets such as stocks,  
13      bonds, and real estate can fluctuate regularly.

14   **Q.   WHAT ARE YOUR CONCERNS ABOUT THE SALARY INFORMATION**  
15      **THAT IS PROVIDED ON THE PERSONAL FINANCIAL STATEMENT?**

16   A.   Salaries can change, be lost, or listed inaccurately which can impact the net worth.  
17      Unless the individual works for the State of South Carolina, it is almost  
18      impossible to verify the actual salary or income of the individual providing the  
19      surety. Income, revenue, or salary information of an individual generated from  
20      the private sector is seldom released and is difficult to verify. In addition,  
21      individual salary or income may change without notice.



1 **Q. HOW CAN THE ORS STAFF DETERMINE IF ALL OF AN**  
2 **INDIVIDUAL'S LIABILITY IS INCLUDED ON THE PERSONAL**  
3 **FINANCIAL STATEMENT DOCUMENT?**

4 A. The ORS cannot verify that all of an individual's liability information is provided  
5 or is accurate. Currently, many individuals omit or do not include all of their  
6 liabilities. The current regulations do not require any form of external accounting  
7 to ensure the liabilities are being reported accurately and that no additional  
8 liabilities have been concealed. For example, ORS has often encountered  
9 personal financial statements utilizing real property as a surety; however,  
10 mortgage liabilities are commonly missing and, in one instance, the utility owner  
11 admitted to ORS staff of the omission of an existing mortgage.

12 **Q. WHAT IS AN EXAMPLE OF MISLEADING INFORMATION OR**  
13 **TERMINOLOGY THAT CAN BE EASILY MISINTERPRETED BY THE**  
14 **REVIEWER?**

15 A. Generally accepted accounting principles require adequate disclosure on the  
16 financial statements and any material fact not covered in the financials should be  
17 disclosed in accompanying footnotes. However, if the utility representative  
18 changes accounting methods simply by altering some of the words in the financial  
19 statement, then the information on the statement can be misleading to the  
20 reviewer. For example, if in one year, a footnote is included stating that certain  
21 income is recognized when *received* (cash basis) while in the following year, the  
22 word "*received*" is substituted with the word *earned* (accrual basis), this can have  
23 the intended effect of boosting an individual's income. While a careful review of

1 the footnotes from year to year would normally detect such a change, the  
2 processes necessary to identify these types of modifications would be overly  
3 burdensome and time consuming to monitor. As a result, such changes can go  
4 unnoticed by an auditor.

5 **Q. WHAT OTHER TYPES OF OMISSIONS CAN OCCUR ON A**  
6 **PERSONAL FINANCIAL STATEMENT?**

7 A. Most fraudulent disclosures involve purposeful omissions, which normally fall  
8 into one of five categories: liabilities, significant events, individual fraud,  
9 accounting improprieties and related party transactions. Liability omissions  
10 usually involve an individual's failure to disclose loan information, covenants or  
11 contingent liabilities. Assets can appear to be inflated without the complete  
12 information concerning any liabilities associated with the assets. Significant  
13 events can include a legal judgment against the financial assets of the individual  
14 providing the surety. Also, a personal bankruptcy filing by an individual  
15 providing surety for a utility can create difficulty for the Commission and ORS to  
16 obtain needed funds from the utility. Individual fraud includes assets and  
17 liabilities being misrepresented to the Commission and ORS. Accounting  
18 improprieties can include certain assets not being identified properly. Some  
19 assets may be owned in part by other parties but the ownership status is not fully  
20 identified in the information filed by the individual providing the surety. Related  
21 party transactions can include agreements between the individual surety provider  
22 and the utility. This can include a loan to the utility by the individual surety

1 provider. If the utility is having problems, it may be difficult for the utility to  
2 provide repayment of the loan to the individual or any other entity.

3 **Q. PRESUMING THE INFORMATION IS CORRECT, WHAT ARE SOME**  
4 **OF THE CONCERNS OF ORS IN COLLECTING THE ASSET AND**  
5 **CONVERTING IT TO USEABLE CASH?**

6 A. The purpose of posting a performance bond is to provide operating funds should  
7 the current utility operator be unable to continue operations. The personal  
8 financial statement only indicates that the utility owner has the means to pay the  
9 amount of the bond should the bond be revoked. However, if the owner does not  
10 have the cash on hand to pay the bond it can be very difficult or impossible to  
11 collect and convert certain assets to cash which will be used to cover operating  
12 expenses of the utility. Some assets that have been listed by individuals include  
13 real estate properties outside of the state of South Carolina and even properties  
14 outside of the United States. These types of assets are not subject to the direct  
15 jurisdiction of South Carolina; therefore, it would be very costly and time  
16 consuming on the part of the collecting entity to convert these types of property to  
17 cash. Given the physical location of some of the assets presented by the utility  
18 representative, the collection process may be prohibited or too costly to pursue.  
19 More importantly, listing assets on a personal financial statement does not create  
20 a lien on that property so neither the PSC nor ORS would have a secured interest  
21 in that property. See EXHIBIT WJM-4 for the procedure of collectiing a  
22 performance bond using a personal financial statement.

1 **Q. EXPLAIN SOME OF YOUR CONCERNS ABOUT THE TYPES OF**  
2 **ASSETS THAT ARE BEING USED BY THE WATER AND**  
3 **WASTEWATER UTILITIES.**

4 A. Certain assets listed on the personal financial statements are legitimate assets;  
5 however, given the nature and type of the asset, it is not possible to collect and  
6 use it towards the operation of the utility. These types of assets include Individual  
7 Retirement Accounts (IRAs), State Retirement Benefits, Social Security Benefits,  
8 and other forms of retirement benefits. All of these types of benefits have been  
9 used by utility representatives to provide documentation of the required individual  
10 surety's personal assets, liabilities, and net worth under the performance bond  
11 requirement. Any actions to collect on these types of assets to operate the system  
12 and ensure its continued operations may be unsuccessful.

13 **Q. IS THE USE OF THE INSURANCE POLICY OPTION A MORE**  
14 **RELIABLE SURETY?**

15 A. An insurance policy can provide security for a utility when it is unable to provide  
16 adequate water and/or sewer service or is unable to pay a Commission imposed  
17 fine or penalty. There are many potential advantages to the utility with an  
18 insurance policy in place to meet the performance bond requirement: (1) no asset  
19 restrictions; (2) control over the prequalification of the utility; (3) no need to  
20 investigate the assets of the surety; (4) no investigation period of a surety after a  
21 utility defaults and (5) coverage of a utility otherwise unqualified for a surety  
22 using a personal financial statement. An advantage of an insurance policy is that  
23 it would involve few parties: the entity being insured, the Commission, and the

1 insurance company. As the contract or insurance policy specifies, the insurance  
2 company will provide compensation for the operating expenses and any penalties  
3 or fines as dictated by the Commission which provides a quick inflow of cash to  
4 support operating expenses. An insurance company's prequalification of a water  
5 and/or wastewater utility can be a valuable loss-prevention measure for the many  
6 customers that are served by the private investor-owned utilities in the State of  
7 South Carolina.

8 **Q. IS THE USE OF A CERTIFICATE OF DEPOSIT AN ACCEPTABLE**  
9 **SURETY?**

10 A. The certificate of deposit is an excellent tool for the utility to use in complying  
11 with the performance bond requirement. This type of financial surety can provide  
12 assurance that actual monies will be available to manage the utility for up to  
13 twelve months under normal circumstances. Further, a certificate of deposit is  
14 guaranteed by an FDIC insured financial institution licensed to do business in  
15 South Carolina; therefore, there would not be any uncertainty of whether  
16 recoverable funds are available.

17 **Q. IS THE USE OF AN IRREVOCABLE LETTER OF CREDIT AN**  
18 **ACCEPTABLE SURETY?**

19 A. An irrevocable letter of credit from a banking institution authorized to do business  
20 in the State of South Carolina is also an excellent tool for the utility to use in  
21 complying with the performance bond requirement. An irrevocable letter of  
22 credit is a type of surety that is guaranteed by the financial institution. If the  
23 utility is deemed to be unable to provide adequate service, funds could be drawn

1 from the financial institution to meet the needs of the system under normal  
2 circumstances for up to one year.

3 **Q. GIVEN YOUR ASSESSMENT OF THE CURRENT PERFORMANCE**  
4 **BOND REQUIREMENT AND YOUR CONCERNS ABOUT THE USE OF**  
5 **A PERSONAL FINANCIAL STATEMENT, HOW WOULD YOU**  
6 **RECOMMEND THAT THE COMMISSION REVISE ITS EXISTING**  
7 **REGULATIONS?**

8 A. Due to the inability to assure that the information is accurate and the limited  
9 authority for collection and enforcement, asset valuation problems, timeliness to  
10 obtain needed funds, net worth stability of the individual surety presenter, and  
11 ease of asset mobility, ORS proposes that the individual surety option be  
12 eliminated from the Commission regulations. If the Commission determines that  
13 particular circumstances warrant the use of a personal financial statement, the  
14 Commission will continue to retain the authority to waive this regulation in  
15 special situations. My suggestion is that the Commission revise its current  
16 regulations to eliminate the option for the utility to allow an individual to act as  
17 surety. A complete description of my suggested changes is included in EXHIBIT  
18 WJM-5. The elimination of the individual surety option will ensure that adequate  
19 funds will be available to operate the systems when they are most needed. This is  
20 especially true if the reason the utility is having problems is that the utility's  
21 owner is no longer able to operate the utility due to illness or death. The  
22 accessibility of an individual's surety is further complicated if the assets are held  
23 up in an estate settlement action.

1   **Q.   THE COMMISSION ALSO INQUIRED INTO THE QUALITY AND**  
2       **SERVICE STANDARDS. WHAT ARE SOME OF THE BENEFITS OF**  
3       **WATER TESTING WHEN EVALUATING THE QUALITY AND**  
4       **SERVICE OF A WATER UTILITY?**

5   A.   Water tests may be conducted to evaluate basic water chemistry and to determine  
6       if the water meets the minimum criteria for bacterial and chemical content. It is  
7       one of the ways to determine if the utility is providing adequate water service to  
8       its customers. The benefit of testing the water is that tests can provide an  
9       unbiased assessment of the water quality. Testing is a useful tool that can help to  
10      determine the cause of water quality issues and assist with customer complaint  
11      issues.

12   **Q.   WHAT IS THE BEST METHODOLOGY TO MEASURE THE QUALITY**  
13       **AND SERVICE THAT IS BEING PROVIDED BY THE WATER**  
14       **UTILITIES THAT ARE REGULATED BY THE COMMISSION?**

15   A.   In light of the current authority given to DHEC and its current inspection and  
16       testing program, parameters such as turbidity and most other bacteria and  
17       chemical analysis should be conducted by DHEC. This would conserve State  
18       resources and would provide the Commission and ORS with a more thorough  
19       review of the water quality. Color, odor, and taste can be observed by ORS  
20       during its normal course of business while interacting with the utility. In deriving  
21       standards for water quality, it is important that the utility have a clear  
22       understanding of the standards and roles each regulatory agency has in assuring

1           that the standards are being met. From our point of view the standards should  
2           consist of very simple indicators, and be easy to understand and implement.

3   **Q.   HOW DOES A WASTEWATER UTILITY ENSURE THAT IT IS**  
4           **PROVIDING SEWERAGE SERVICE THAT IS “INSOFAR AS**  
5           **PRACTICABLE FREE FROM OBJECTIONABLE ODORS”?**

6   A.   The greatest pressure for improved utility performance ultimately comes from the  
7           consumer. Sometimes these types of customer complaints may be lodged against  
8           the utility because the customer does not want certain types of utility plant or  
9           equipment close to their residence or in their neighborhood. Additionally, certain  
10          odor issues may be related to a specific operational problem. At this time, no  
11          specific standard or measuring method has been established by the EPA or DHEC  
12          for evaluating odors from a wastewater utility. The South Carolina Pollution  
13          Control Act (Section 48-1-120 of the Code of Laws of South Carolina 1976) does  
14          offer some helpful tools to wastewater utilities for managing odor concerns.

15   **Q.   HOW CAN A WASTEWATER UTILITY BEST EVALUATE THE**  
16          **QUALITY AND SERVICE IT PROVIDES TO ITS CUSTOMERS?**

17   A.   Compliance with the rules and regulations of the regulatory authorities is one of  
18          the ways that the utilities can evaluate its performance. Managing wastewater in  
19          itself is a dirty task and there is the potential for complaints to occur. When given  
20          clear and specific conditions under which to operate, the utility should be able to  
21          operate and coexist in the community for which it was built to serve. It should be  
22          noted that the utility should immediately respond to all odor complaints and  
23          attempt to determine the cause of the odors. Remedial action should be taken



1           where appropriate to correct identified problems with the utility system. This can  
2           help with the utility's effort to coexist with the customers that it serves.

3   **Q.    DOES THAT CONCLUDE YOUR TESTIMONY?**

4   **A.    Yes it does.**

**THE OFFICE OF REGULATORY STAFF**  
**DOCKET NO. 2005-243-WS**  
**PUBLIC HEARING REGARDING WATER AND WASTEWATER**  
**PERFORMANCE BONDS**

**WILLIE J. MORGAN TESTIMONY**

**EXHIBIT INDEX**

<b><u>EXHIBIT NO.</u></b>	<b><u>EXHIBIT TYPE</u></b>	<b><u>PREPARED BY</u></b>
WJM-1	List of Water and Wastewater Utilities and their Performance Bond Status	ORS
WJM-2	Chart with Types of Surety Used for Performance Bonds	ORS
WJM-3	Graph with Types of Surety versus Number of Customers	ORS
WJM-4	Process for Revocation of Performance Bond Using Personal Financial Statement	ORS
WJM-5	Recommended Changes to Performance Bond Requirement	ORS

# **EXHIBIT WJM-1**

**PERFORMANCE BOND DATA ON FILE WITH THE PUBLIC SERVICE COMMISSION**  
**Last Revised 2/16/06**

	COMPANY	SERVICE TYPE	WATER AMOUNT	SEWER AMOUNT	BOND TYPE	Number of Customers*	EXPIRATION DATE	Compliant with at least Minimum Bond Requirement
1	A.D. Hare Water Works Inc	Water	\$100,000		Personal Financial Statement	613	Oct-06	Yes
2	AAA Utilities, Inc.	Water/Sewer	\$30,000	\$10,000	Personal Financial Statement	536	Jun-05	No
3	Alpine Utilities, Inc.	Sewer		\$100,000	Personal Financial Statement	5,673	May-06	Yes
4	Aqua South Carolina, Inc.	Sewer		\$100,000	Insurance Certificate	430	Dec-06	Yes
5	Ashley Oaks Water System, Inc.	Water	\$10,000		Certificate of Deposit	93	Auto	No
6	Avondale Mills, Inc.	Water/Sewer	\$30,000	\$30,000	Certificate of Deposit	1,156	Auto	No
7	Bush River Utilities, Inc.	Sewer		\$100,000	Irrevocable Letter of Credit	48	Sep-06	Yes
8	Carolina Water Service, Inc.	Water/Sewer	\$350,000	\$350,000	Irrevocable Letter of Credit	15,512	Jul-06	Yes
9	Condor Environmental, Inc.	Sewer		\$100,000	Personal Financial Statement	1**	May-06	Yes
10	CUC, Inc.	Water/Sewer	\$100,000	\$100,000	Personal Financial Statement	1,537	May-06	Yes
11	Development Services, Inc.	Sewer		\$100,000	Irrevocable Letter of Credit	140	Sep-06	Yes
12	Dowd Water Systems, Inc.	Water	\$100,000		Personal Financial Statement	62	Aug-06	No
13	E & R Partnership	Water	\$200,000		Personal Financial Statement	275	Jun-06	Yes
14	Eagle Point Water Co., Inc.	Water	-	-	Personal Financial Statement	64		No
15	Ferguson Water System	Water	\$10,000		Personal Financial Statement	7	Apr-05	No
16	Floydville Community Water System	Water	\$10,000		Insurance Certificate	81	Auto	No
17	Georgia Water & Well Services, Inc.	Water	\$100,000		Personal Financial Statement	424	Sep-06	Yes
18	Gnato's Utility	Water	-	-	No Bond	14		
19	Goat Island Water & Sewer Co. Inc.	Water/Sewer	\$10,000	\$10,000	Personal Financial Statement	100	May-05	
20	Guerin's Creek Wastewater Utility, Inc.	Sewer	-	-	No Bond	14		
21	H & H Enterprises, Inc.	Water	\$10,000		Personal Financial Statement	18	Jun-05	
22	Haig Point Utility Company, Inc.	Water/Sewer	\$350,000	\$350,000	Insurance Certificate	954	Aug-06	Yes
23	Harbor Island Utilities, Inc.	Water/Sewer	\$100,000	\$100,000	Personal Financial Statement	696	Nov-06	Yes
24	Hyde Park Water Works, Inc.	Water	\$100,000		Personal Financial Statement	92	Oct-06	Yes
25	JACABB Utilities, Inc. (formerly J.C. Cox Utilities, Inc.)	Sewer		\$100,000	Personal Financial Statement	33	Jun-06	Yes
26	Kiawah Island Utility, Inc.	Water/Sewer	\$350,000	\$350,000	Irrevocable Letter of Credit	6,211	Auto	No
27	Lake Princeton Water Company	Water	\$100,000		Personal Financial Statement	10	Mar-05	No
28	Lake Wylie Community Utilities, Inc.	Water/Sewer	\$100,000	\$100,000	Personal Financial Statement	568	Jun-06	Yes
29	Links Water Treatment, LLC	Sewer		\$100,000	Irrevocable Letter of Credit	22	Jun-06	Yes
30	Madera Utilities, Inc.	Sewer		\$10,000	Personal Financial Statement	104	Mar-05	No
31	Melrose Utility Company, Inc.	Water/Sewer	\$140,000	\$140,000	Insurance Certificate	348	Oct-06	Yes
32	Midlands Utility, Inc.	Sewer		\$100,000	Irrevocable Letter of Credit	2,842	Sep-06	Yes
33	Moore Sewer, Inc.	Sewer		\$100,000	Personal Financial Statement	309	Jan-07	Yes
34	Ocean Lakes Utilities, LP	Water/Sewer	\$50,000	\$50,000	Irrevocable Letter of Credit	2,571	Oct-94	No
35	Palmetto Utilities, Inc.	Sewer		\$50,000	Certificate of Deposit	7,554	Auto	No
36	Piedmont Water Company, Inc.	Water	\$100,000	\$125,000	Personal Financial Statement	18	Mar-05	No
37	Piney Grove Utilities, Inc.	Water/Sewer	-	-	Personal Financial Statement	343	Mar-05	No
38	Quail Hollow Utilities, Inc.	Sewer		\$50,000	Personal Financial Statement	570	Mar-99	No
39	Quail Ridge Water Company	Water	\$100,000		Personal Financial Statement	81	Sep-06	Yes
40	River Pines Water System, Inc.	Water/Sewer	-	-	Personal Financial Statement	308	Mar-05	No
41	Rural Water Co.	Water/Sewer	\$20,000	\$10,000	Personal Financial Statement	164	Dec-04	No
42	S.D. Utilities, LLC	Water/Sewer	\$100,000	\$100,000	Personal Financial Statement	190	Aug-05	No
43	Scenic Lake Park	Sewer		\$100,000	Personal Financial Statement	29	Jun-06	Yes

**PERFORMANCE BOND DATA ON FILE WITH THE PUBLIC SERVICE COMMISSION**  
**Last Revised 2/16/06**

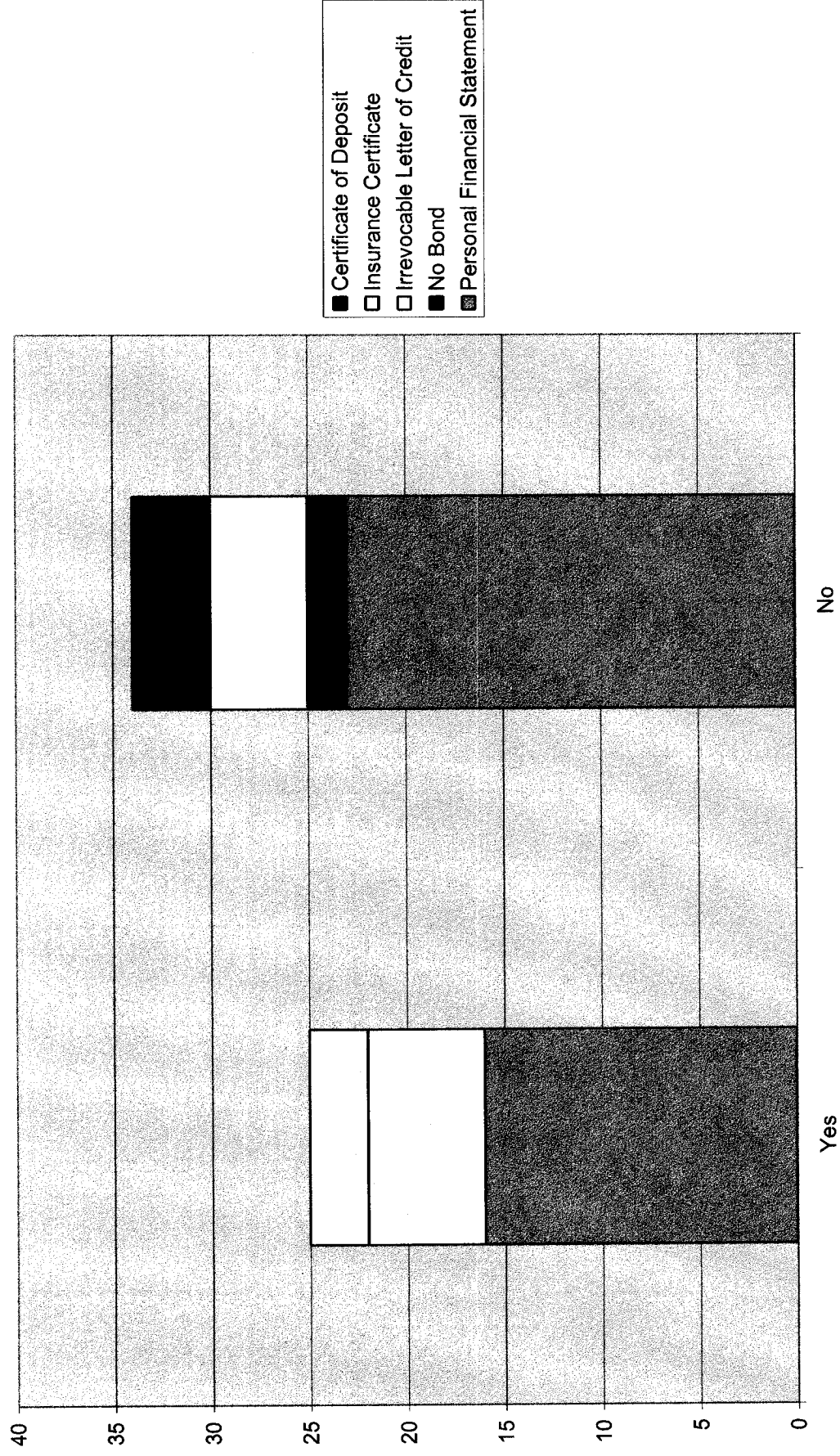
	COMPANY	SERVICE TYPE	WATER AMOUNT	SEWER AMOUNT	BOND TYPE	Number of Customers*	EXPIRATION DATE	Compliant with at least Minimum Bond Requirement
44	Scotland Yard Utility	Water	\$20,000		Personal Financial Statement	48	Jul-06	No
45	Shoals Sewer Co.	Sewer		\$10,000	Personal Financial Statement	106	Jun-06	No
46	Sigfield Water Co., Inc.	Water	\$10,000		Personal Financial Statement	83	Dec-04	No
47	South Atlantic Utilities, Inc.	Water	\$10,000		Personal Financial Statement	22	Jun-05	No
48	Southland Utilities, Inc.	Water	\$10,000		Irrevocable Letter of Credit	181	Jun-06	No
49	Suburban Water System	Water	\$10,000		Personal Financial Statement	14	May-05	Closed 12/20/05
50	T. J. Barnwell Utility, Inc.	Sewer	\$100,000		Personal Financial Statement	230	Nov-06	Yes
51	Tega Cay Water Service, Inc.	Water/Sewer	\$50,000	\$50,000	Irrevocable Letter of Credit	3,356	Jun-06	No
52	Total Environmental Systems, Inc.	Water/Sewer	\$100,000	\$100,000	Irrevocable Letter of Credit	1,104	Auto	Yes
53	United Utility Companies, Inc.	Water/Sewer	\$50,000	\$50,000	Irrevocable Letter of Credit	1,541	Jun-06	No
54	Upstate Water Resources	Water	\$10,000		Personal Financial Statement	79	Jun-06	No
55	Utilities Services of South Carolina	Water/Sewer	\$50,000	\$50,000	Irrevocable Letter of Credit	7,349	Jun-06	No
56	Water Supply Co., Inc.	Water	\$10,000		Personal Financial Statement	222	Jul-06	No
57	Woodland Utilities, Inc.	Sewer		\$100,000	Personal Financial Statement	1,174	Jun-06	Yes
58	Wright's Plumbing & Utilities, Inc	Water	\$100,000		Personal Financial Statement	26	Mar-05	No
59	Wyboo Plantation Utilities, Inc.	Water	\$100,000	\$100,000	Personal Financial Statement	266	Sep-05	No
60	Wyboo Water Department, Inc.	Water	\$200,000		Personal Financial Statement	100	Jun-05	Yes

\* Unaudited information from annual reports and other documents submitted by utility

\*\* Serves approximately 190 homes through homeowners association agreement.

# **EXHIBIT WJM-2**

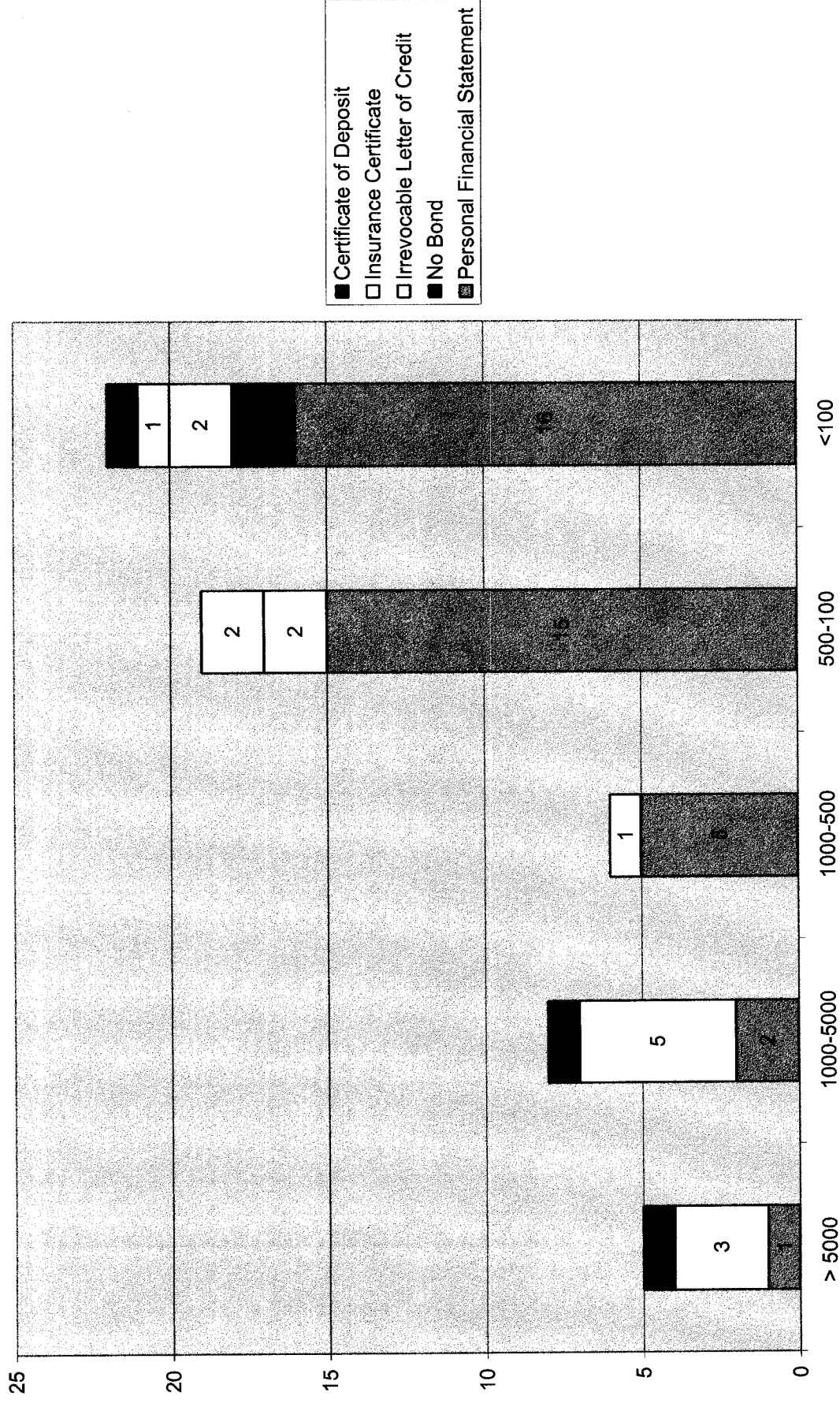
**Types of Bonding Instruments used by Companies in Compliance with PSC Regulations and those not in compliance**



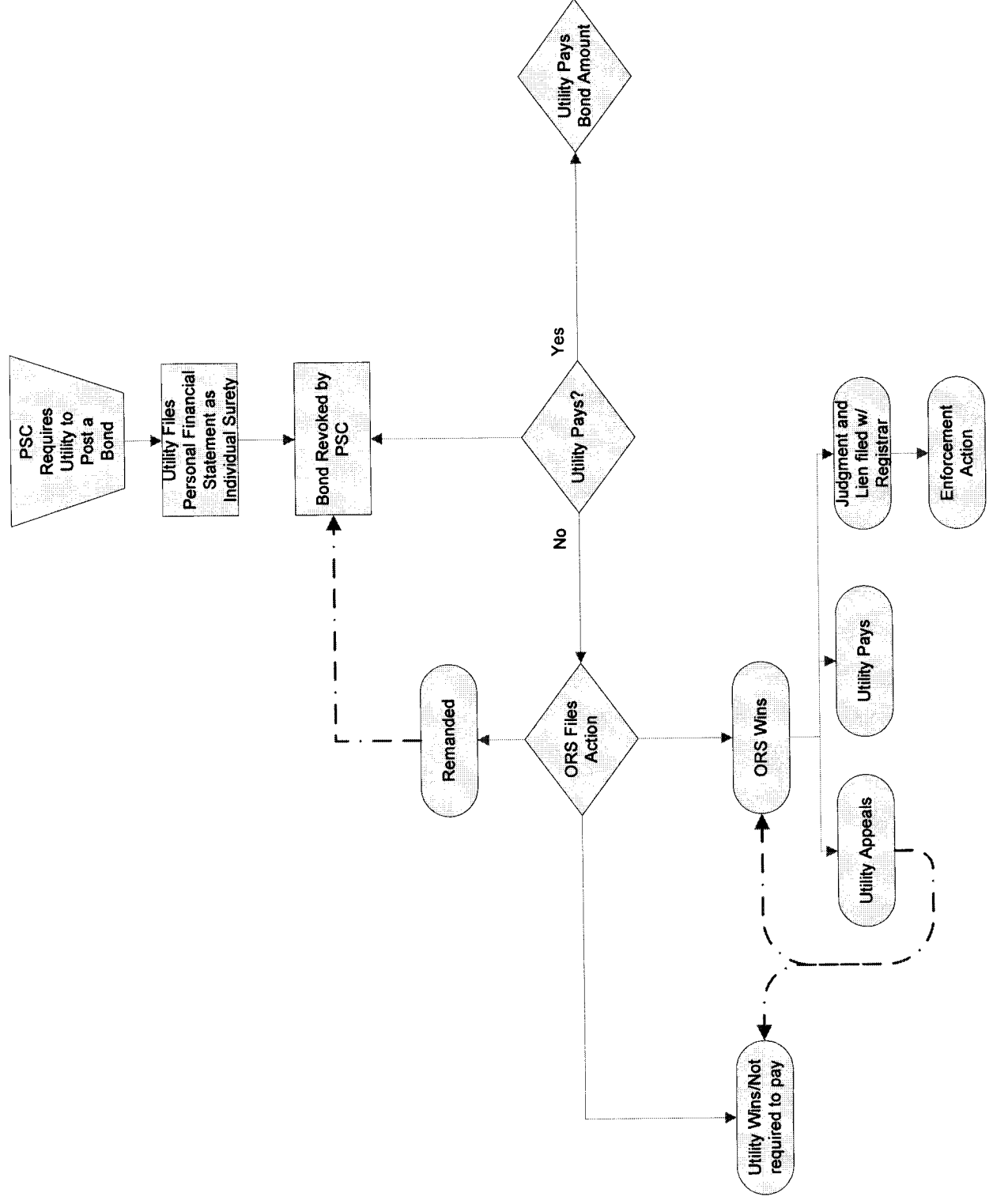
# **EXHIBIT WJM-3**



Types of Surety vs. Number of Customers



# **EXHIBIT WJM-4**



# **EXHIBIT WJM-5**

Proposed amendments to 26 S.C. Code Regs. 103-512.3.1 through 103-512.3.3 (Supp. 2004) and 26 S.C. Code Regs. 103-712.3.1 through 103-712.3.3 (Supp. 2004). Deletions from the current text are stricken (i.e. ~~stricken~~) and additions to the current text are underlined (i.e. underlined). (Please note that the numbering of the regulations below is slightly different but this numbering tracks the numbering as published.)

### **103-512.3. Performance Bond.**

Prior to operating, maintaining, acquiring, expanding or improving any utility system, for which Commission approval is required, the utility shall have on file with the Commission, and provide a copy to the ORS, a performance bond with sufficient surety using a format prescribed by the Commission.

#### **103-512.3.1. Amount of Bond.**

The amount of bond shall be based on, but not limited to, the total amount of the following categories of expenses for twelve months: Operation and Maintenance Expenses, General and Administrative Expenses, Taxes Other Than Income Taxes, Income Taxes, and Debt Service including Interest Expenses. The minimum amount of the bond shall be \$100,000 and the maximum amount of the bond shall be \$350,000 based on the verified expenses of the utility for the preceding twelve month period. A bond shall be required for each water and wastewater provider under the jurisdiction of the Public Service Commission. A certification that the face amount of the bond on file with the Commission complies with the provisions of 103-512.3.1 of this rule shall be filed with the annual report required by 103-512.1 of this rule. The ~~Staff~~ ORS shall review the annual reports and certifications and determine whether the present bond of the utility accurately reflects the expenses of the utility. Based upon the expenses of the utility as submitted in the annual report and as reviewed and adjusted by ~~Staff~~ ORS, the ~~Staff~~ ORS shall make recommendations for increasing or reducing the amount of the bond within the minimum and maximum limits as prescribed by statute.

#### **103-512.3.2. Sureties.**

(A) Sufficient surety may be any of the following or combination of the following totaling the value of the required bond amount:

(1) a duly licensed bonding, ~~or insurance, casualty, or surety~~ company authorized and licensed to do business in this State. A corporate surety, other than such a bonding or insurance company, shall not be considered sufficient surety. Sufficient surety may be any individual, as stockholder, partner, sole owner, etc., in the utility, so long as the individual surety's net worth is at least twice the face amount of the performance bond.

(2) certificates of deposit and/or securities.

(a) Certificates of deposit may be drawn on federal or state chartered banks which maintain an office in this State and whose accounts are insured by Federal Deposit Insurance Corporation or similar insurance. Multiple certificates of deposit may be used to provide sufficient surety for a bond; each certificate of deposit posted as surety shall be covered by FDIC or similar insurance.

(b) Acceptable securities are :

(i) obligations of the United States of America,

(ii) obligations of the State of South Carolina,

(iii) irrevocable letters of credit issued by financial institutions acceptable to the Commission.

(B) Certificates of deposit provided as surety for the performance bond must be drawn in the name of the utility and the Commission. Irrevocable letters of credit and bonds or assurances issued by approved corporate sureties must name the Commission as obligee of the bond and must name the utility as the principal.

(C) Utilities are to maintain at all times the required bond amount as provided in 103-512.3.1. Prior to the expiration, revocation, or maturity of any surety, the utility is to secure a new surety so that the required bond amount is in effect at all times. The utility shall provide the Commission and ORS written notification of the new surety by means of certified mail, return receipt requested. Any lapse in maintaining the performance bond and sureties at all times or failure to maintain the required bond amount shall result in an automatic 25% increase above the original required bond amount for a minimum of two years.

(D) A corporate surety, other than a licensed bonding, insurance, casualty, or surety company authorized and licensed to do business in this State, shall not be considered sufficient surety. A utility may not stand as surety for its own bond. A personal financial statement, regardless of the individual's net worth, shall not be considered sufficient surety.

#### **103-512.3.3. Financial Statement:**

~~When any individual acts as surety, he shall file with the Commission annually a financial statement verified by said surety showing the individual surety's personal assets, liabilities, and net worth. The Commission may accept a verification of the financial statement in a format prescribed by the Commission.~~

**103-712. Data to be Filed with the Commission.**

3. Performance Bond. Prior to operating, maintaining, acquiring, expanding or improving any water utility system, for which Commission approval is required, the utility shall have on file with the Commission, and provide a copy to the ORS, a performance bond with sufficient surety using a format prescribed by the Commission.

3.1. Amount of Bond. The amount of bond shall be based on, but not limited to, the total amount of the following categories of expenses for twelve months: Operation and Maintenance Expenses, General and Administrative Expenses, Taxes Other Than Income Taxes, Income Taxes, and Debt Service including Interest Expenses. The minimum amount of the bond shall be \$100,000 and the maximum amount of the bond shall be \$350,000 based on the verified expenses of the utility for the preceding twelve month period. A bond shall be required for each water and wastewater provider under the jurisdiction of the Public Service Commission. A certification that the face amount of the bond on file with the Commission complies with the provisions of 103-712.3.1 shall be filed with the annual report required by 103-712.1 of this rule. The Staff ORS shall review the annual reports and certifications and determine whether the present bond of the utility accurately reflects the expenses of the utility. Based upon the expenses of the utility as submitted in the annual report and as reviewed and adjusted by Staff ORS, the Staff ORS shall make recommendations for increasing or reducing the amount of the bond within the minimum and maximum limits as prescribed by statute.

## 3.2. Sureties.

(A) Sufficient surety may be any of the following or combination of the following totaling the value of the required bond amount:

(1) a duly licensed bonding, or insurance, casualty, or surety company authorized and licensed to do business in this State. A corporate surety, other than such a bonding or insurance company, shall not be considered sufficient surety. Sufficient surety may be any individual, as stockholder, partner, sole owner, etc., in the utility, so long as the individual surety's net worth is at least twice the face amount of the performance bond.

(2) certificates of deposit and/or securities.

(a) Certificates of deposit may be drawn on federal or state chartered banks which maintain an office in this State and whose accounts are insured by Federal Deposit Insurance Corporation or similar insurance. Multiple certificates of deposit may be used to provide sufficient surety for a bond; each certificate of deposit posted as surety shall be covered by FDIC or similar insurance.

(b) Acceptable securities are :

(i) obligations of the United States of America.

(ii) obligations of the State of South Carolina,

(iii) irrevocable letters of credit issued by financial institutions acceptable to the Commission.

(B) Certificates of deposit provided as surety for the performance bond must be drawn in the name of the utility and the Commission. Irrevocable letters of credit and bonds or assurances issued by approved corporate sureties must name the Commission as obligee of the bond and must name the utility as the principal.

(C) Utilities are to maintain at all times the required bond amount as provided in 103-512.3.1. Prior to the expiration, revocation, or maturity of any surety, the utility is to secure a new surety so that the required bond amount is in effect at all times. The utility shall provide the Commission and ORS written notification of the new surety by means of certified mail, return receipt requested. Any lapse in maintaining the performance bond and sureties at all times or failure to maintain the required bond amount shall result in an automatic 25% increase above the original required bond amount for a minimum of two years.

(D) A corporate surety, other than a licensed bonding or insurance company authorized to do business in this State, shall not be considered sufficient surety. A utility may not stand as surety for its own bond. A personal financial statement, regardless of the individual's net worth, shall not be considered sufficient surety.

~~3.3. Financial statement. When any individual acts as surety, he shall file with the Commission annually a financial statement verified by said surety showing the individual surety's personal assets, liabilities and net worth. The Commission may accept a verification of the financial statement in a format prescribed by the Commission.~~